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**Comments on Yet To Be Finalized Regulations Implementing Section 611, et seq of
Public Law 108-357, the Fair and Equitable Tobacco Reform Act of 2004**

Dear Sir:

On behalf of various clients, who are predominantly cigarette importers, we hereby submit these brief comments based on our review of the referenced portion of the more encompassing recently enacted law, commonly referred to as the tobacco buyout legislation. Our comments will focus on Section 625 of the referenced statute, entitled the, "Use of Assessments As Source of Funds For Payments."

Problem With Definition of Base Year (625(a)(1))

The definition of the base year appears to give those new entrants into the market or older entrants with diminished sales prior to June 30, 2004 either a free ride or a reduced assessment until the new payment for fiscal year 2005 is due during the first quarter of 2006. This problem is perceived as affecting the ability to make the producer payments due in 2005 and raises concerns regarding special assessments to cover any shortfall in revenue as provided for in Subsection (c) (2) and (3).

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Definition of Gross Domestic Volume (625(a)(2))

The referenced section makes no provision for credit for subsequently imported or domestically produced tobacco products, which are subsequently exported. Existing Internal Revenue Code provisions and the Tariff Act of 1930, as amended both provide for credit for subsequently exported product. We submit that there should be a corresponding exemption for duty/excise tax paid product subsequently exported.

The Definition of Market Share (625(a)(3))

For the same reasons as set forth above in response to the definition of the Base Period, it appears that preexisting importers and manufacturers will have overstated market share percentages based on the different periods of measurement for the base period and fiscal year.

Imposition of Assessment (625(b)(1))

The commenter asserts that there are foreseeable problems with collecting the assessment from manufacturers or importers, unless this exaction is covered by the TTB and/or Customs entry bonds, which is presently unclear. If voluntary payment is not received, then the remaining manufacturers and importers of that class of tobacco product may unfairly be subject to additional assessments under Subsection (c) (3).

Subsequent Allocations (625(c)(2))

With respect to the periodic adjustment of the percentages of the total amount required under subsection (b) to 'reflect changes in the share of gross domestic volume held by that class of tobacco product,' Commenter suggests that there be some advanced notice to the extent possible so that the affected class members can adjust their prices. Since the initial allocation is based on a fiscal year calculation and presumably subsequent allocations will be calculated on the same basis, it appears that the market share calculation even based on subsequent allocation figures will be unfavorably skewed against existing importers and manufacturers by new entrants after the base year period ends each year.

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Effect of Insufficient Amounts (625(c)(3))

Obviously the determination of 'insufficient amounts' is of great concern to those responsible to fund the Trust, and such shortfalls are deemed likely when certain manufacturers and/or importers fail to meet their financial obligations. It is suggested that the current TTB and CBP bonding provisions be reviewed and/or modified as necessary to guaranty such defaults.

Effect of Failure To Provide Require Information (625(h)(3))

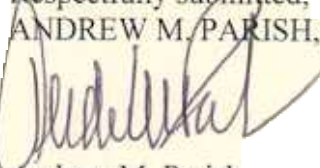
The word 'value' in the context of the civil penalty provision must be defined. Is it the retail or wholesale value?

Disputed Assessments (625(i)(5))

In view of the six month period for the promulgation of further regulations regarding the administrative appeal of assessments, the Commenter at this point suggests that perhaps some type of bonding can serve as a substitute for the 'escrow' into which disputed sums be paid. This would eliminate constraints on contested working capital during the period of resolution.

Reservation of Right to Supplement This Submission

The commenter respectfully reserves the right to supplement these comments upon further analysis of the statute, legislative history, and evolving commercial implications of this new law.

Respectfully submitted,
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AMP/ap